

106TH CONGRESS
2D SESSION

S. 3059

To amend title 49, United States Code, to require motor vehicle manufacturers and motor vehicle equipment manufacturers to obtain information and maintain records about potential safety defects in their foreign products that may affect the safety of vehicles and equipment in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2000

Mr. MCCAIN (for himself, Mr. GORTON, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to require motor vehicle manufacturers and motor vehicle equipment manufacturers to obtain information and maintain records about potential safety defects in their foreign products that may affect the safety of vehicles and equipment in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Motor Vehicle and
3 Motor Vehicle Equipment Defect Notification Improve-
4 ment Act”.

5 **SEC. 2. IMPROVED INTERNATIONAL COOPERATION CON-**
6 **CERNING SAFETY-RELATED DEFECTS.**

7 (a) IN GENERAL.—Subchapter I of chapter 301 of
8 title 49, United States Code, is amended by adding at the
9 end the following:

10 **“§ 30106. International cooperation**

11 “(a) IN GENERAL.—The Secretary of Transportation
12 may cooperate with the transportation authorities of for-
13 eign countries to enhance motor vehicle and traffic safety
14 by exchanging information with those authorities related
15 to motor vehicle and motor vehicle equipment safety de-
16 fects, noncompliance with motor vehicle safety and motor
17 vehicle equipment standards and regulations.

18 “(b) CONFIDENTIAL INFORMATION.—The Secretary
19 may authorize the disclosure of confidential commercial
20 information submitted to the National Highway Traffic
21 Safety Administration, or incorporated in agency-prepared
22 records, to a foreign governmental agency that performs
23 functions similar to those performed by the National
24 Highway Traffic Safety Administration as part of cooper-
25 ative law enforcement or regulatory efforts if—

1 “(1) the Secretary determines that disclosure
2 would be in the interest of improved motor vehicle
3 safety; and

4 “(2) the foreign governmental agency provides
5 a statement in writing to the Secretary that—

6 “(A) establishes the agency’s authority to
7 protect confidential commercial information
8 from public disclosure; and

9 “(B) commits the foreign governmental
10 agency not to disclose any such information
11 provided to it under this subsection without the
12 written permission of the person to whom the
13 information relates or a written confirmation
14 from the National Highway Traffic Safety Ad-
15 ministration that the information has ceased to
16 qualify as confidential commercial information
17 under United States law.

18 “(c) NONPUBLIC INFORMATION.—The Secretary may
19 authorize the disclosure of nonpublic, pre-decisional docu-
20 ments concerning regulations or other regulatory require-
21 ments of the National Highway Traffic Safety Administra-
22 tion or other Federal agencies, and other nonpublic infor-
23 mation relevant to agency activities, to a foreign govern-
24 mental agency that performs functions similar to those
25 performed by the National Highway Traffic Safety Ad-

1 ministration as part of cooperative law enforcement or
2 regulatory activity if—

3 “(1) the Secretary determines that disclosure is
4 reasonably necessary to facilitate motor vehicle safe-
5 ty related cooperative law enforcement or regulatory
6 activity; and

7 “(2) the foreign governmental agency provides
8 a statement in writing to the Secretary that—

9 “(A) establishes the foreign governmental
10 agency’s authority to protect the document or
11 information from public disclosure; and

12 “(B) commits the foreign governmental
13 agency not to disclose any document or infor-
14 mation provided to it under this subsection
15 without a written confirmation from the Na-
16 tional Highway Traffic Safety Administration
17 that it has no objection to disclosure of the doc-
18 ument or that the information has ceased to
19 qualify as nonpublic information under United
20 States law.

21 “(d) LIMIT ON DISCLOSURE.—Notwithstanding any
22 other provision of law, a document or information dis-
23 closed under subsection (b) or (c) to a foreign govern-
24 mental agency is not required to be disclosed to the public
25 under section 552 of title 5, United States Code, or any

1 other provision of law, unless the information has ceased
 2 to qualify as confidential commercial information under
 3 United States law.”.

4 (b) CLERICAL AMENDMENT.—The chapter analysis
 5 for subchapter I of chapter 301 of title 49, United States
 6 Code, is amended by adding at the end the following:

“30106. International cooperation”.

7 **SEC. 3. INTERNATIONAL AGREEMENT FOR RECALLS OF**
 8 **MOTOR VEHICLES OR MOTOR VEHICLE**
 9 **PARTS.**

10 (a) INTERNATIONAL AGREEMENT.—The President is
 11 authorized and requested to initiate, within 60 days after
 12 the date of the enactment of this Act, negotiations for an
 13 international agreement governing the recall by manufac-
 14 turers of motor vehicles and motor vehicle equipment with
 15 safety-related defects.

16 (b) PURPOSE.—The purpose of these negotiations
 17 shall be to establish an international agreement under
 18 which government officials agree to cooperate in fur-
 19 thering global transparency with respect to motor vehicle
 20 and motor vehicle equipment recalls so as to promote con-
 21 sumer safety and to enhance consumer confidence.

22 (c) GUIDELINES.—The international agreement ne-
 23 gotiated under subsection (a) should incorporate the fol-
 24 lowing provisions:

1 (1) Each signatory will designate a competent
2 authority within its national government as the re-
3 sponsible authority for disseminating, to the public
4 and to other foreign authorities, information about
5 recalls of motor vehicles or motor vehicle equipment.

6 (2) Each signatory will cooperate at the inter-
7 national level through its designated authorities
8 through information exchange, communication, and
9 joint action.

10 (3) Each signatory will make available, to the
11 public and to other governments, through an Inter-
12 net site, at a minimum, the following information:

13 (A) The name, title, and contact informa-
14 tion for the competent authority for motor vehi-
15 cle or motor vehicle equipment recalls.

16 (B) The names of any motor vehicle or
17 motor vehicle equipment manufacturer in its ju-
18 risdiction that has issued a recall, the com-
19 pany's contact information, and the specific
20 motor vehicle or motor vehicle equipment that
21 is the subject of a recall.

22 (C) The country in which the recall is in
23 effect, and the date of the recall.

24 (4) Each signatory, in the interest of getting all
25 relevant information to its competent authority and

1 having the authority share it with the competent au-
2 thorities of other countries, will disseminate widely
3 the final guidelines negotiated to all relevant govern-
4 mental departments, agencies, and branches of gov-
5 ernment.

6 (5) Each signatory that is an advanced indus-
7 trialized country will seek to assist other countries
8 that are signatories to implement the agreement,
9 and to aid efforts by those countries to ensure com-
10 pliance with the agreement.

11 (6) Each signatory will establish a framework
12 to conduct regular oversight and review to assess the
13 operation and effectiveness of the agreement and to
14 create a forum in which each signatory can share
15 with other signatories the laws and regulations it
16 has adopted to implement the agreement.

17 (d) GUIDELINES FOR ENTERPRISES ENGAGED IN
18 TRADE.—The international agreement negotiated under
19 subsection (a) should incorporate the following guidelines
20 on recalls for manufacturers engaged in exporting motor
21 vehicles or motor vehicle equipment or manufacturing
22 motor vehicle equipment for inclusion in motor vehicles to
23 be exported:

24 (1) TRANSPARENCY AND DISCLOSURE.—Each
25 such manufacturer should disclose all relevant infor-

1 mation regarding any recall it undertakes to the
 2 competent authority in the country in which it initi-
 3 ates the recall and to the competent authority in the
 4 country in which it is incorporated. The information
 5 should be extensive enough to facilitate public notice
 6 described in subsection (c)(3).

7 (2) CONSUMER INTERESTS.—Each such manu-
 8 facturer should be cognizant of the fact that con-
 9 sumers cross international borders and often take
 10 vehicles with them, and should, to the greatest ex-
 11 tent practical, make consumers aware of recalls of
 12 its motor vehicles or motor vehicle equipment, par-
 13 ticularly in countries that border or are in proximity
 14 to a country in which the recall was initiated.

15 (3) COOPERATION WITH REGULATORY AU-
 16 THORITIES.—Each such manufacturer should co-
 17 operate promptly with the national authorities in
 18 any country that is requesting information about a
 19 motor vehicle or motor vehicle equipment recall in
 20 an effort to safeguard consumer safety.

21 **SEC. 4. COMPLIANCE REQUIRED FOR CERTIFICATION.**

22 Section 30115 of title 49, United States Code, is
 23 amended by adding at the end the following: “A person
 24 may not affix a certification label or tag to a motor vehicle
 25 or an item of motor vehicle equipment under this section

1 unless that person has established, through testing or en-
 2 gineering analyses, that the vehicle or equipment complies
 3 with all applicable motor vehicle safety standards pre-
 4 scribed under this chapter.”.

5 **SEC. 5. DEFECT AND NONCOMPLIANCE NOTIFICATION FOR**
 6 **OEM EQUIPMENT; ACCIDENT DATA.**

7 (a) IN GENERAL.—Section 30118 of title 49, United
 8 States Code, is amended—

9 (1) by striking “motor vehicle or replacement
 10 equipment” in subsections (a), (b), and (c) and in-
 11 serting “motor vehicle, original equipment, or re-
 12 placement equipment”;

13 (2) by redesignating subsections (d) and (e) as
 14 subsections (e) and (f); and

15 (3) by inserting after subsection (c) the fol-
 16 lowing:

17 “(d) REVIEW OF SAFETY-RELATED DATA.—A manu-
 18 facturer of a motor vehicle, original equipment, or replace-
 19 ment equipment shall review and consider information re-
 20 garding accidents and incidents involving motor vehicles
 21 or equipment manufactured by that manufacturer (or a
 22 related party) that resulted in fatalities, serious injuries,
 23 or fires, including information about such accidents and
 24 incidents outside the United States, and notify the Sec-
 25 retary if the manufacturer has reason to believe that the

1 vehicle or equipment involved has a safety-related defect
 2 or fails to comply with any motor vehicle safety standard
 3 prescribed under this chapter.”.

4 (b) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) take effect 180 days after the date of enact-
 6 ment of this Act.

7 **SEC. 6. EXTENSION OF TIME FOR NO-CHARGE REMEDIES.**

8 Section 30120(g)(1) of title 49, United States Code,
 9 is amended—

10 (1) by striking “8 calendar years,” and insert-
 11 ing “10 calendar years,”; and

12 (2) by striking “3 calendar years,” and insert-
 13 ing “5 calendar years,”.

14 **SEC. 7. USED MOTOR VEHICLES.**

15 Section 30126 of title 49, United States Code, is
 16 amended—

17 (1) by inserting “(a) IN GENERAL.—” before
 18 “To ensure”; and

19 (2) by adding at the end the following:

20 “(b) SALES OF USED MOTOR VEHICLES FOR WHICH
 21 NOTICE HAS ISSUED.—

22 “(1) IN GENERAL.—A dealer may not sell a
 23 used motor vehicle, except for purposes other than
 24 resale, or lease a used motor vehicle to another, un-
 25 less the dealer—

1 “(A) informs the purchaser or lessee of
2 any notification of a defect or noncompliance
3 under section 30118(b) or (c) with respect to
4 that vehicle that has not been remedied; and

5 “(B) either—

6 “(i) offers to remedy the defect or
7 noncompliance (within the meaning of such
8 term as used in section 30120); or

9 “(ii) obtains from the purchaser or
10 lessee a signed statement in writing ac-
11 knowledging receipt of a document that de-
12 scribes the defect or noncompliance (in-
13 cluding any relevant information from such
14 a notification) and the offer.

15 “(2) DEFINITIONS.—In this subsection:

16 “(A) DEALER.—Notwithstanding section
17 30102(a)(1), the term ‘dealer’ means a person
18 who sold at least 10 motor vehicles to pur-
19 chasers for purposes other than resale within
20 the 12 months preceding the sale of the vehicle
21 referred to in paragraph (1). For purposes of
22 this subparagraph, the term motor vehicle does
23 not include a motor vehicle sold for parts or
24 scrap as a junk automobile (as defined in sec-

1 tion 30501(4)) or a motor vehicle that is a sal-
 2 vage vehicle (as defined in section 30501(7)).

3 “(B) USED MOTOR VEHICLE.—The term
 4 ‘used motor vehicle’ means a motor vehicle that
 5 has previously been purchased for purposes
 6 other than resale.”.

7 **SEC. 8. SCHOOL BUSES.**

8 Section 30125 of title 49, United States Code, is
 9 amended by adding at the end the following:

10 “(d) OPERATION AFTER NOTIFICATION.—

11 “(1) In general.—A person who owns or leases
 12 a school bus who receives a notice of a defect or
 13 noncompliance for that school bus under section
 14 30118(b) or (c) may not operate the school bus as
 15 a school bus for more than 30 days after receipt of
 16 the notice unless the defect or noncompliance is rem-
 17 edied (within the meaning of that term as used in
 18 section 30120) or the Secretary grants a waiver.
 19 The Secretary may grant a waiver from the prohibi-
 20 tion in the preceding sentence, or extend the 30-day
 21 period, if the Secretary, in the Secretary’s sole dis-
 22 cretion, finds that the waiver or extension is in the
 23 public interest.”.

1 **SEC. 9. COMMERCIAL PASSENGER VEHICLES.**

2 (a) IN GENERAL.—Subchapter II of chapter 301 of
3 title 49, United States Code, is amended by adding at the
4 end thereof the following:

5 **“§ 30128. Commercial passenger vehicles**

6 “A person who owns or leases a motor vehicle used
7 to transport passengers for compensation who receives a
8 notice of a defect or noncompliance for that motor vehicle
9 under section 30118(b) or (c) may not operate the motor
10 vehicle for that purpose until the defect or noncompliance
11 is remedied (within the meaning of that term as used in
12 section 30120).”.

13 (b) CLERICAL AMENDMENT.—The chapter analysis
14 for subchapter II of chapter 301 of title 49, United States
15 Code, is amended by adding at the end the following:

“30128. Commercial passenger vehicles”.

16 **SEC. 10. PENALTIES.**

17 (a) CIVIL PENALTIES.—Section 30165(a) of title 49,
18 United States Code, is amended to read as follows:

19 “(a) IN GENERAL.—A person that violates any of
20 sections 30112, 30115, 30117 through 30122, 30123(d),
21 30125(c) or (d), 30126(b), 30127, 30128, 30141 through
22 30147, or 30166, or a regulation prescribed thereunder,
23 is liable to the United States Government for a civil pen-
24 alty of not more than \$5,000 for each violation. A separate
25 violation occurs for each motor vehicle or item of motor

1 vehicle equipment and for each failure or refusal to allow
 2 or perform an act required by any of those sections. The
 3 maximum penalty under this paragraph for a related se-
 4 ries of violations is \$15,000,000, except that no such max-
 5 imum applies in the case of a willful and intentional viola-
 6 tion.”.

7 (b) CRIMINAL PENALTIES.—

8 (1) IN GENERAL.—Subchapter IV of chapter
 9 301 of title 49, United States Code, is amended by
 10 adding at the end the following:

11 **“§ 30170. Criminal penalties**

12 “(a) DEFECTS THAT CAUSE GRIEVOUS BODILY
 13 HARM.—It is unlawful for a manufacturer to introduce
 14 a motor vehicle or motor vehicle equipment into interstate
 15 commerce with a safety-related defect that causes grievous
 16 bodily harm to an individual if the manufacturer knows
 17 of the defect at the time the vehicle or equipment is intro-
 18 duced into intrastate commerce.

19 “(b) DEFECTS THAT CAUSE FATALITIES.—It is un-
 20 lawful for a manufacturer to introduce a motor vehicle or
 21 motor vehicle equipment into interstate commerce with a
 22 safety-related defect that causes the death of an individual
 23 if the manufacturer knows of the defect at the time the
 24 vehicle or equipment is introduced into intrastate com-
 25 merce.

1 “(c) PENALTIES.—Violation of subsection (a) is pun-
 2 ishable by fine of not more than \$10,000, imprisonment
 3 for not more than 5 years, or both. Violation of subsection
 4 (b) is punishable by a fine of not more than \$50,000, im-
 5 prisonment for not more than 15 years, or both.”.

6 (2) CLERICAL AMENDMENT.—The subchapter
 7 analysis for subchapter IV of chapter 301 of title
 8 49, United States Code, is amended by adding at
 9 the end the following:

“30170. Criminal penalties”.

10 **SEC. 11. RECORDS AND REPORTS.**

11 (a) RECORDKEEPING AND REPORTING REQUIRE-
 12 MENTS.—Section 30166(e) of title 49, United States
 13 Code, is amended to read as follows:

14 “(e) RECORDS AND REPORTS.—

15 “(1) IN GENERAL.—The Secretary of Transpor-
 16 tation is authorized to require a manufacturer of a
 17 motor vehicle or motor vehicle equipment to keep
 18 records, and a manufacturer, distributor, or dealer
 19 to make reports, to enable the Secretary to decide
 20 whether the manufacturer, distributor, or dealer has
 21 complied or is complying with this chapter or a regu-
 22 lation prescribed or order issued under this chapter.
 23 This subsection does not impose a recordkeeping re-
 24 quirement on a distributor or dealer in addition to
 25 those imposed under subsection (f) of this section

1 and section 30117(b) or a regulation prescribed or
2 order issued under subsection (f) or section
3 30117(b).

4 “(2) ACCIDENTS AND INCIDENTS.—The Sec-
5 retary of Transportation shall require a manufac-
6 turer of a motor vehicle or motor vehicle equipment
7 to keep records and to make reports if the manufac-
8 turer has received information with regard to acci-
9 dents or other incidents involving motor vehicles or
10 equipment manufactured by that manufacturer (or a
11 related party) that resulted in fatalities, serious inju-
12 ries, or fires. The Secretary is authorized to require
13 that the reports be made when the information is re-
14 ceived by the manufacturer, periodically, or in re-
15 sponse to an order or request by the Secretary.

16 “(3) WARRANTY, CLAIM, AND OTHER INFORMA-
17 TION.—The Secretary of Transportation is author-
18 ized to require a manufacturer of a motor vehicle or
19 motor vehicle equipment to keep records and to
20 make reports with regard to warranty or adjustment
21 information, consumer complaints, consumer satis-
22 faction campaigns, lawsuits (but only with respect to
23 lawsuits for which the manufacturer has been named
24 as a defendant in 3 or more lawsuits with respect to
25 the same defect), personal injury claims, and other

1 safety-related information relating to actual or po-
2 tential defects. The Secretary is authorized to re-
3 quire a manufacturer of motor vehicle equipment to
4 provide information to the Secretary related to the
5 number, or other identifying characteristic, of equip-
6 ment made or sold by that manufacturer. The Sec-
7 retary is authorized to require that the reports be
8 made when the information is received by the manu-
9 facturer, periodically, or in response to an order or
10 request by the Secretary.

11 “(4) ACCESS TO DEFECT AND RECALL DEALER
12 COMMUNICATIONS.—The Secretary of Transpor-
13 tation is authorized to require a manufacturer of a
14 motor vehicle or motor vehicle equipment to provide
15 reasonable access to the manufacturer’s communica-
16 tions related to defects and recalls to the same ex-
17 tent and in the same manner as provided to the
18 manufacturer’s dealers.

19 “(5) INSURORS.—The Secretary of Transpor-
20 tation is authorized to require a person in the busi-
21 ness of providing automobile insurance or resolving
22 claims under insurance policies to keep records or to
23 make reports, upon receiving information, periodi-
24 cally, or in response to an order or specific request
25 to make a report regarding accidents or incidents in

1 vehicles and equipment that result in fatalities, seri-
 2 ous injuries, or fires. The information required may
 3 include the vehicle identification number, the in-
 4 sured's name, address, and telephone number. The
 5 Secretary shall treat any such information with re-
 6 spect to an insured person as confidential informa-
 7 tion.”.

8 (b) COMMUNICATIONS ABOUT DEFECTS AND NON-
 9 COMPLIANCE.—Section 30166(f) of title 49, United States
 10 Code, is amended by striking “communication to” and in-
 11 serting “communication to, or made available to,”.

12 (c) DEFINITIONS.—Section 30166(a) of title 49,
 13 United States Code, is amended to read as follows:

14 “(a) DEFINITIONS.—Notwithstanding section
 15 30102(a), in this section:

16 “(1) MOTOR VEHICLE ACCIDENT.—The term
 17 ‘motor vehicle accident’ means an occurrence associ-
 18 ated with the maintenance or operation of a motor
 19 vehicle or motor vehicle equipment resulting in per-
 20 sonal injury, death, or property damage.

21 “(2) DEALER.—The term ‘dealer’ means a per-
 22 son selling and distributing new motor vehicles or
 23 motor vehicle equipment, inside or outside the
 24 United States, primarily to purchasers that in good

1 faith purchase the vehicles or equipment other than
2 for resale.

3 “(3) DISTRIBUTOR.—The term ‘distributor’
4 means a person primarily selling and distributing
5 motor vehicles or motor vehicle equipment, inside or
6 outside the United States, for resale.

7 “(4) MANUFACTURER.—The term
8 ‘manufacturer’—

9 “(A) means a person—

10 “(i) manufacturing or assembling
11 motor vehicles or motor vehicle equipment;
12 or

13 “(ii) importing motor vehicles or
14 motor vehicle equipment for resale; and

15 “(B) includes—

16 “(i) a person incorporated within or
17 with its principal place of business in the
18 United States and its direct and indirect
19 domestic and foreign subsidiaries and af-
20 filiates;

21 “(ii) a person with its principal place
22 of business in a foreign country, including
23 its direct or indirect domestic and foreign
24 subsidiaries and affiliates, any of which ex-

ports motor vehicles or motor vehicle
equipment into the United States; and

“(iii) a person with its principal place
of business in a foreign country, including
its direct or indirect domestic and foreign
subsidiaries and affiliates, any of which
manufactures or assembles motor vehicles
or motor vehicle equipment in the United
States.

“(5) OWNER.—The term ‘owner’ means an
owner inside or outside the United States.

“(6) PURCHASER.—The term ‘purchaser’
means a purchaser inside or outside the United
States.

“(7) PERSON.—The term ‘person’ means any
manufacturer, distributor, or dealer and any other
person within the United States that may have in-
formation related to this chapter.”.

(d) EFFECTIVE DATE.—The amendments made by
this section take effect 180 days after the date of enact-
ment of this Act.

SEC. 12. INCREASE IN ODOMETER PENALTIES.

(a) CIVIL PENALTY.—Section 32709(a)(1) of title
49, United States Code, is amended—

1 (1) by striking “\$2,000” and inserting
2 “\$5,000”; and

3 (2) by striking “\$100,000.” and inserting
4 “\$1,000,000.”.

5 (b) PRIVATE CIVIL ACTIONS.—Section 32710(a) of
6 title 49, United States Code, is amended by striking
7 “\$1,500,” and inserting “\$10,000.”.

8 **SEC. 13. REVISED TIRE SAFETY STANDARDS.**

9 Within 30 days after the date of enactment of this
10 Act, the Secretary of Transportation shall initiate a rule-
11 making proceeding to review and revise as necessary the
12 motor vehicle safety standards for pneumatic tires pre-
13 scribed under chapter 301 of title 49, United States Code.
14 The Secretary shall complete the rulemaking no later than
15 June 1, 2001.

16 **SEC. 14. IMPROVED TIRE SIDEWALL MARKINGS.**

17 Within 30 days after the date of enactment of this
18 Act, the Secretary of Transportation shall initiate a rule-
19 making proceeding to improve the labelling of tires re-
20 quired by section 30123 of title 49, United States Code,
21 to facilitate improved public understanding of load limits
22 and appropriate tire inflation levels. The Secretary shall
23 also take whatever additional action is appropriate to en-
24 sure that the public is aware of the importance of observ-

- 1 ing motor vehicle tire load limits and maintaining proper
- 2 tire inflation levels to the safe operation of a motor vehicle.

○